

The Second Division consisted of the regular members and in addition Referee John B. LaRocco when award was rendered.

Parties to Dispute:      { System Federation No. 2, Railway Employees'  
                                 { Department, A. F. of L.      -      C. I. O.  
                                 { (Carmen)  
                                 { Missouri Pacific Railroad Company

Dispute: Claim of Employees:

1. That the Missouri Pacific Railroad Company violated Rule 8 (a) and (b) of the controlling Agreement when they failed to distribute overtime as per above cited Rule when they arbitrarily called in Carmen Garvin and Zagalik to work overtime June 29, 1977.
2. That the Missouri Pacific Railroad Company be ordered to compensate Carmen W. R. Steinkamp and K. L. Marmon in the amount of ten (10) hours each at the punitive rate of pay.

Findings:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

Claimants worked out of the carrier's train yard and repair facility in Kansas City, Missouri. This dispute arises out of the assignment of overtime to two other carmen on June 29, 1977. The other carmen performed overtime work two hours before and eight hours after their regular shift. The organization claims that if overtime had been properly distributed pursuant to Rule 8(b) of the controlling agreement, the claimants were entitled to and should have been assigned the full ten hours of overtime that accrued to the two other carmen.

The carrier contends, and we agree, that Rule 8(b) of the controlling agreement does not contemplate absolute equality in the distribution of overtime. Second Division Award No. 6613 (Lieberman). A claim for improper distribution must be measured over a period of time and not tied to one particular incident. Second Division Award No. 6420 (Shapiro). From the record, it is clear that the organization failed to prove that the claimants were denied access to substantially equal overtime over a period of time. Indeed, there has been no showing that these two claimants were deprived of overtime opportunities during a period of time as a result of the carrier's assignment on June 29, 1977, and concomitantly, no proof that the claimants were ready and willing to perform the work. Second

Division Award No. 7624 (Williams). Thus, the carrier did not violate the 8(b) overtime distribution provisions.

Next, the organization asserts that the carrier, by calling in the other carmen two hours before the commencement of their regular shift, violated the prohibition against calling in employees more than one hour in advance of their regular shift as set forth in Rule 4(e). However, the organization has proven no connection between Rule 4(e) and this particular claim for a total of twenty hours of overtime. Absent a showing that these claimants were injured by the alleged violation of Rule 4(e), we cannot address this contention on its merits.

Lastly, the organization argues that the carrier after timely requests, did not furnish the organization with overtime hours performed by the four carmen. However, these records would hardly provide this Board with a better understanding of the dispute. The claimants are asking for a specific ten hours of overtime and are, again, not making a claim for lost premium time pay over a certain time period.

A W A R D

The claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: Executive Secretary  
National Railroad Adjustment Board

By Rosemarie Brasch  
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 16th day of April, 1980.